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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

ROSEMARY BROWN,)	
)	
Plaintiff,)	Case No.: 3:20-cv-108-TSL-RHW
)	
v.)	COMPLAINT AND DEMAND
)	FOR JURY TRIAL
)	
ALLY FINANCIAL, INC.,)	
)	
Defendant.)	
)	

COMPLAINT

ROSEMARY BROWN (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against ALLY FINANCIAL, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”).

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331, which grants this court original jurisdiction of all civil actions arising under the laws of the

1 United States. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181
2 L. Ed. 2d 881 (2012).

3 3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

4 **PARTIES**

5
6 4. Plaintiff is a natural person, who resides in Hazelhurst, Mississippi.

7 5. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

8 6. Defendant is a corporation with its headquarters located at P.O. Box
9 951, Horsham, PA 19044.

10
11 7. Defendant is a “person” as that term is defined by 47 U.S.C. §
12 153(39).

13 8. Defendant acted through its agents, employees, officers, members,
14 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
15 representatives, and insurers.

16
17 **FACTUAL ALLEGATIONS**

18 9. Plaintiff has a cellular telephone number.

19 10. Plaintiff has only used this phone as a cellular telephone.

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21 11. Defendant called Plaintiff on her cellular telephone on a repetitive
22 and continuous basis.

23 12. During the relevant period, Defendant called Plaintiff on her cellular
24 telephone multiple times per day.
25

1 13. When contacting Plaintiff on her cellular telephone, Defendant used
2 an automatic telephone dialing system and automated and/or pre-recorded
3 messages.

4 14. Plaintiff often would answer a call to be greeted with a long pause or
5 delay before being transferred to a live representative acting on behalf of
6 Defendant.

7 15. Defendant's telephone calls were not made for "emergency
8 purposes," as Defendant has been calling Plaintiff in regards to an automobile
9 loan.
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11 16. Soon after the calls began, Plaintiff spoke with Defendant and
12 informed Defendant she did not wish to receive further calls from the Defendant,
13 thereby revoking any consent that Defendant may have thought it had in placing
14 calls to Plaintiff's cellular telephone number.
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16 17. Despite Plaintiff's clear revocation of consent to call her cellular
17 phone, Defendant persisted in calling Plaintiff.
18

19 18. Upon information and belief, Defendant conducts business in a
20 manner which violates the Telephone Consumer Protection Act.
21

22 **DEFENDANT VIOLATED THE**
23 **TELEPHONE CONSUMER PROTECTION ACT**

24 19. Plaintiff incorporates the forgoing paragraphs as though the same
25 were set forth at length herein.

1 20. Defendant initiated multiple automated telephone calls to Plaintiff's
2 cellular telephone using a prerecorded voice.

3 21. Defendant initiated these automated calls to Plaintiff using an
4 automatic telephone dialing system.

5 22. Defendant's calls to Plaintiff were not made for emergency purposes.

6 23. Defendant's calls to Plaintiff were not made with Plaintiff's prior
7 express consent after she revoked consent.

8 24. Defendant's acts as described above were done with malicious,
9 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
10 under the law and with the purpose of harassing Plaintiff.

11 25. The acts and/or omissions of Defendant were done unfairly,
12 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
13 lawful right, legal defense, legal justification or legal excuse.

14 26. As a result of the above violations of the TCPA, Plaintiff has suffered
15 the losses and damages as set forth above entitling Plaintiff to an award of
16 statutory, actual and treble damages.

17 WHEREFORE, Plaintiff, ROSEMARY BROWN, respectfully prays for a
18 judgment as follows:
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- a. All actual damages suffered pursuant to 47 U.S.C. §227(b)(3)(A);
- b. Statutory damages of \$500.00 per violative telephone call pursuant to 47 U.S.C. §227(b)(3)(B);
- c. Treble damages of \$1,500 per violative telephone call pursuant to 47 U.S.C. §227(b)(3);
- d. Injunctive relief pursuant to 47 U.S.C. §227(b)(3); and
- e. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, ROSEMARY BROWN, demands a jury trial in this case.

Dated: 2-26-20

By: /s/ Christopher E. Kittell
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